

June 3, 2005

Elliott Robinson, Director
Monterey County
Department of Social and Employment
Services
1000 South Main Street
Salinas, CA 93901

Re: Your Request for Advice
Our File No. A-05-062

Dear Ms. Robinson:

This letter is in response to your request on behalf of Monterey County, for advice regarding the statements of economic interests provisions of the Political Reform Act (the “Act”).¹

QUESTION

Are members of the Workforce Investment Board (“WIB”) of Monterey County public officials who must file Statements of Economic Interests?

CONCLUSION

Members of the WIB of Monterey County, which will serve as a workforce investment board pursuant to the Workforce Investment Act, are public officials who must file Statements of Economic Interests and are subject to the Act’s conflict-of-interest rules.

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

FACTS

The Federal Workforce Investment Act delegates local workforce investment boards authority to certify One-Stop Career Center operators, to award grants to youth and adult employment service providers, and budget development. In Monterey County, members of the Workforce Investment Board (“WIB”) are appointed by the Board of Supervisors to implement the requirements of Workforce Investment Act (“WIA”) and to develop strategic plans for workforce development, monitor local programs and recommend funding for service delivery. The WIB is staffed by Monterey County employees and the county acts as fiscal agent through the County’s Department of Social and Employment Services.

Consistent with Federal law, Monterey County WIB activities include: recommendation of budgets to the Board of Supervisors, preparation and evaluation of requests for proposals, recommendation of contract awards to the Board of Supervisors, and monitoring of program performance. The decisions of the WIB require concurrence by the Board of Supervisors in order to be final.

ANALYSIS

Section 82003 defines “agency” to include “any state or local government agency.” Section 82041 defines “local government agency” to mean “a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.”

We have previously advised that WIBs are local governmental agencies, and therefore must adopt a conflict of interest code. (*Vig Rein* Advice Letter, No. A-02-124; *Holland* Advice Letter, No. I-01-140; *Dostart* Advice Letter, No. A-00-022.) Because the WIB of Monterey County serves as a WIB, it is a local government agency for purposes of the Act. As such, the members sitting on a local WIB are “public officials” under the Act.² As public officials, all of the members of the WIB’s board are subject to the Act’s conflict-of-interest rules since they will make or participate in the making of governmental decisions. (Section 87100; *Dostart*, *supra*.)

Additionally, since the members will make or participate in the making of governmental decisions, they will be “designated employees” subject to the Act’s disclosure rules and required to submit Statements of Economic Interests (“SEI’s”). A “designated employee” includes a member of an agency whose position with the agency is designated in a conflict of interest code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest. (Section 82019(a)(3).)

² “Public official” is defined as every member, officer, employee or consultant of a state or local government agency, with certain exceptions not applicable here. (Section 82048.)

Please be aware that whether a separate code is established or the officials are included in Monterey County's code is a determination to be made by the Board of Supervisors, the code reviewing body. (Sections 87301 and 82011; see also regulation 18329.5.) If you have any other questions regarding this matter or need technical assistance regarding the establishment or amendment of a code, please contact the Division of Technical Assistance at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel

By:

Galena West
Counsel, Legal Division

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